

**REMARKS**

By this Preliminary Amendment, Applicant cancels 1-36 without prejudice or disclaimer of the subject matter thereof, and adds claims 37-45.

During the prosecution of prior application no. 10/166,074, the Examiner issued a Final Office Action dated May 21, 2003, which rejected the claims added to this application by this Preliminary Amendment on the following grounds. The Examiner rejected claims 37-39 and 41-45 under 35 U.S.C. § 102(b) as anticipated by Heitzman et al. (U.S. Patent No. 4,814,896) and rejected claim 40 under 35 U.S.C. § 103(a) as unpatentable over Heitzman in view of Watson (U.S. Patent No. 5,616,030). Applicant thanks the Examiner for clarifying by telephone that the inclusion of the Mann and Brostedt references on page three of the Final Office Action was inadvertent and that the grounds for the rejection of claim 40 should have been under 35 U.S.C. § 103(a) as unpatentable over Heitzman in view of Watson.

Claims 37-39 and 41-45 are not anticipated under 35 U.S.C. § 102(b) by Heitzman. Heitzman discloses a real time video data acquisition system for automotive testing and research in automobile-driver interactions. Heitzman further discloses obtaining various instrument readings for a vehicle undergoing testing. See col. 3, lines 54-67. However, Heitzman acquires real-time data and transmits it or plays back that data after video recording to present a real-time composite of all conditions monitored during a test drive. See col. 4, lines 61-67.

By contrast, Applicant's claim 37 recites a combination including, among other things, "capturing a real-time signal associated with the user engaged in a physical activity," "combining the real-time signal and generated information into an instructional signal" and "presenting the instructional signal to the user in real-time" (emphasis

added). Heitzman does not disclose or suggest at least these features. Instead, Heitzman discloses recording the real-time information and then playing it back thereafter. Moreover, Heitzman does disclose or suggest “presenting the instructional signal to the user in real-time.” Accordingly, the Examiner should allow claim 37.

Independent claims 42 and 45 include recitations of a similar scope as claim 37. For example, claim 42 recites a combination including, among other things, “a video camera for capturing a real-time image associated with the user engaged in a physical activity,” “a mixer for combining the real-time signal and generated information into an instructional signal” and “a display for presenting the instructional signal to the user in real-time.” Claim 45 recites a combination including, among other things, “receiving a real-time signal associated with a user performing a physical activity,” “combining the real-time signal and the real-time information into an instructional signal,” and “sending the instructional signal to a display in real-time.” Accordingly, for at least the same reasons discussed above, the Examiner should allow claims 42 and 45.

Dependent claims 38-39, 41, and 43-44 depend from one of allowable independent claims 37, 42, and 45. Accordingly, for at least the same reasons discussed above in relation to the independent claims, the Examiner should allow claims 38-39, 41, and 43-44.

Claim 40 is also not unpatentable under 35 U.S.C. § 103(a) over Heitzman in view of Watson. As discussed above, Heitzman does not disclose or suggest the features of claim 37. Watson does not make up for the deficiencies of Heitzman. Watson discloses a flight simulation kit that simulates or mimics the movements of an actual aircraft in flight. Watson, however, does not disclose or suggest the features of

claim 37 missing from Heitzman, namely, "capturing a real-time signal associated with the user engaged in a physical activity," "combining the real-time signal and generated information into an instructional signal" and "presenting the instructional signal to the user in real-time."

Moreover, there is no motivation to combine the simulation system of Watson with the system for acquiring real-time data of Heitzman. One would not be motivated to combine Watson's teachings of flight simulation with Heitzman's teachings of gathering real time data for automobile testing. Nor is there a reasonable expectation of success for making the proposed combination. Accordingly, for at least these reasons, the Examiner should allow claim 40.

**CONCLUSION**

If there is any fee due in connection with the filing of this Preliminary Amendment, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

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